

## DEPARTMENT OF TRANSPORTATION

### ASSISTANCE LISTING 20.315 NATIONAL RAILROAD PASSENGER CORPORATION GRANTS

#### I. PROGRAM OBJECTIVES

The Federal Railroad Administration (FRA) executes and oversees grant agreements with the National Railroad Passenger Corporation (Amtrak) to provide Amtrak with federal funds appropriated by Congress. In conjunction with operating revenues and funds from states, local governments, and other entities, Amtrak uses federal funds for a wide range of its operating and capital activities, including a portion of its operating expenses, capital maintenance of fleet and infrastructure, capital expansion and investment programs, and capital debt repayment.

#### II. PROGRAM PROCEDURES

##### Background

The FAST Act (P.L. 114-94, enacted December 4, 2015) authorized \$305 billion over fiscal years 2016 to 2020 for the Department of Transportation's (DOT) surface transportation programs, including highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, and research, technology and statistics programs. The FAST Act authorization includes \$8.05 billion for grants to Amtrak, composed of \$2.596 billion for the Northeast Corridor (NEC) and \$5.454 billion for the National Network, as well as other requirements related to Amtrak, passenger rail, and freight rail. Annual appropriations may vary from the amounts authorized in the FAST Act for the NEC and National Network.

The Department of Transportation (DOT), Federal Railroad Administration (FRA) *Amtrak Annual Grants Management and Oversight Manual, Version 5.0 (July 2020)* meets the requirements of Section 11202(a) of the FAST Act (titled Amtrak Grant Process), which requires the Secretary of Transportation (Secretary) to establish and transmit "substantive and procedural requirements, including schedules," for grant requests by Amtrak for Federal funds appropriated to the Secretary for the use of Amtrak to the Committee on Commerce, Science, and Transportation, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives.

The Notice of Grant Award (NGA) includes key grant information: the Statement of Work (SOW) and Terms and Conditions. The Terms and Conditions consist of provisions derived from enacted legislation, FRA policy, federal statutes, and government-wide regulations recipients of federal awards must follow. The conditions specify report formats and frequency of reporting, payment method, prior approval requirements and also include Amtrak specific provisions. Amtrak is responsible for reviewing and understanding the financial, administrative and legal requirements outlined in the document.

Given the size and complexity of Amtrak's program and its unique funding history, FRA and Amtrak engage in a collaborative process to ensure the conditions not only align with

government-wide and DOT requirements but also enable Amtrak to achieve programmatic goals and objectives.

### **Source of Governing Requirements**

2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards applies to this program, as modified by the terms and conditions of the annual grant agreements (69A36521502440AMTDC and 69A36521502430AMTDC).

Sections 11201 and 11202 of FAST Act, 49 U.S.C 24319 applies to this program.

Continuing Appropriations and Military Construction, Veterans Affairs and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act & Further Continuing and Security Assistance Appropriations Act, Public Law 114-223 & 254

Continuing Appropriations Act, 2016 & Consolidated Appropriations Act, 2016, Public Law 114-53 & 113

Continuing Appropriation Resolution, 2015 & Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113-164 & 235

Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017; Further Continuing Appropriations Act, 2018; Further Additional Continuing Appropriations Act, 2018; Extension of Continuing Appropriations Act, 2018; Further Extension of Continuing Appropriations Act, 2018; and the Consolidated Appropriations Act, 2018. Public Law 114-56,90,96,120,123,141

Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Making further continuing appropriations for fiscal year 2019, and for other purposes making appropriations for fiscal year 2019; Further Additional Continuing Appropriations Act,2019; Consolidated Appropriations Act, 2019. Public Law 115-245,298; 116-5,6;

Further Consolidated Appropriations Act, 2020, Pub. L. 116-94; Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. 116-136.

Continuing Appropriations Act, 2021 and Other Extensions Act making appropriations for FY 2021 through December 11, 2020, Pub. L. 116-159, October 1, 2020 Further Continuing Appropriations Act, 2021 and Other Extensions Act making appropriations for FY 2021 through December 18, 2020, Pub. L. 116-215, December 11, 2020 Further Extension of Continuing Appropriations Act, 2021 making appropriations for FY 2021 through December 28, 2020, Pub. L. 116-246, December 22, 2020 Consolidated Appropriations Act, 2021, Pub. L. 116-260, December 27, 2020 American Rescue Plan Act of 2021, Pub. L.117-2, March 11, 2021

### **Availability of Other Program Information**

Department of Transportation, Federal Railroad Administration *Amtrak Annual Grants Management and Oversight Manual, Version 5.0 (July 2020)*

### III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.”

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	N	Y

#### A. Activities Allowed or Unallowed

Grants to Amtrak are authorized under Sections 11101(a) and (b) of the FAST Act to fund “activities associated with the Northeast Corridor” and “activities associated with the National Network.” Congress provides further direction on the use of funds in each appropriation act, often directing Amtrak to spend specific sums on certain activities (e.g., Americans with Disabilities Act compliance or the acquisition of rolling stock). These set-asides, however, do not affect the broad eligibility of the grant funds, only the amounts spent on these specified activities. FRA has generally interpreted “activities associated with” the Northeast Corridor and National Network to mean activities that support Amtrak’s provision of intercity passenger rail. In practice, activities allowed include operating and capital costs and debt service payments. Activities unallowed include costs unrelated to intercity passenger rail service, such as costs associated with Amtrak’s ancillary service line (e.g., commuter train contract services).

#### B. Allowable Costs/Cost Principles

Amtrak’s grant agreement requires it to “conform with Federal guidelines or regulations and Federal cost principles for Recipients that are for-profit organizations, as set forth in

the Federal Acquisition Regulation, 48 C.F.R. Subpart 31.2, “Contracts with Commercial Organizations,” in lieu of 2 C.F.R. Part 200, Subpart E.”

### **G. Matching, Level of Effort, Earmarking**

The appropriation Act that directs grants be made to Amtrak and the corresponding grant agreements often include directed spending requirements, including but not limited to:

- Spend “at least \$75 million from its FY 2021 NEC and NN grants to bring Amtrak served facilities and stations into compliance with the ADA” – ADA compliance is qualitatively material to Amtrak.
- Use no less than \$109,805,000 for states’ PRIIA Section 212 capital payments – PRIIA 212 funds are quantitatively and qualitatively material.

### **L. Reporting**

1. Financial Reporting
  - a. SF-270, Request for Advance or Reimbursement – Applicable
  - b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Applicable
  - c. SF-425, Federal Financial Report – Applicable
  - d. Program Income Report
  - e. Consolidated Financial Sources and Uses Statements
  - f. Monthly Expenditure Report (MER)
  - g. Estimated Monthly Expenditure Reports
2. Performance Reporting
  - a. Capital Project Analysis Report (VaVb Report)
  - b. Program of Project Status Report (PSR)
  - c. Amtrak’s Performance Tracking (APT) Detailed Route Report

- d. APT Allocation Rules Archives Report
  - e. Monthly Credit Facility Report
  - f. Rail Fleet Monthly Report
  - g. PRIIA 212 Payments
  - h. Withdrawn Property, Equipment, and Supplies
  - i. Debt Service Payment Report
  - j. APT Annual Report
  - k. Final Work Plan
  - l. Rail Fleet Asset Condition Report
- 3. Special Reporting – Not Applicable
  - 4. Special Reporting for Federal Funding Accountability and Transparency Act
- See Part 3.L for audit guidance

## **N. Special Tests and Provisions**

Amtrak's grant agreements have some qualitatively material special provisions, including but not limited to:

- a. Use and reporting of overtime for agreement employees
- b. Preventing and reporting on employee furloughs
- c. Buy American Act/Domestic Buying Preference